

February 1, 1999



OFFICE OF THE
ATTORNEY GENERAL
STATE OF TEXAS

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Ms. Jennifer D. Soldano
Associate General Counsel
Texas Department of Transportation
125 E. 11th Street
Austin, Texas 78701-2483

OR99-0284

Dear Ms. Soldano:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 121504.

The Department of Transportation (the "department") received a request for information related to Job Vacancy Notice # 8-52-MO99-537. You have supplied a representative sample of the responsive information, including information that you indicate you will release.¹ You seek to withhold "page 2 of the screening instrument (Knowledge, skills, and abilities) interview questions and answers, and interviewer's notes for Questions 5-7, 10, and 11." You assert that section 552.122 of the Government Code excepts these items from disclosure. We have considered the exception you claim and have reviewed the information at issue.

Section 552.122(b) excepts from disclosure test items developed by a licensing agency or governmental body. In Open Records Decision No. 626 (1994), this office determined that the term "test item" in section 552.122 includes any standard means by which an individual's or group's knowledge or ability in a particular area is evaluated, but does not encompass evaluations of an employee's

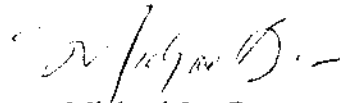
¹ We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office

overall job performance or suitability. Whether information falls within the section 552.122 exception must be determined on a case-by-case basis. Open Records Decision No. 626 at 6 (1994). Traditionally, this office has applied section 552.122 where release of "test items" might compromise the effectiveness of future examinations. *Id.* at 4-5; *see also* Open Records Decision No. 118 (1976).

In this instance, we conclude that none of the submitted information falls within the ambit of section 552.122 of the Government Code. The information must therefore be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in dark ink, appearing to read "Michael Jay Burns", is written over a horizontal line.

Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/ch

Ref: ID# 121504

Enclosures: Submitted documents

cc: Ms. Barbara Bates
40th & Jackson Avenue
Austin, Texas 78779
(w/o enclosures)